IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3834 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BALWANT SINGH

Versus

BATUKBHAI BHAGWANBHAI MARUDA

Appearance:

MR PRANAV G DESAI for Petitioners

NOTICE SERVED for Respondent No. 1

MR S.T. MEHTA, APP,for Respondent No. 2

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 29/09/2000

ORAL JUDGEMENT

Heard Shri Pranav G Desai, learned counsel for the petitioners and Shri S.T. Mehta, ld. APP, for

respondent no.2. Respondent no.1 has been served but he has remained absent.

2 The original accused of Criminal Case No.2626 of 1994 pending on the file of the learned Judicial Magistrate First Class, Court No.1, Baroda, (who will be referred to hereinafter as the learned Magistrate of the trial Court) have by filing this petition u/s 482 of Cr.PC requrested to quash the proceeding initiated against the petitioners on the basis of private complaint lodged by respondent no.1 in the Court of the learned Magistrate of the trial Court on 11.7.1994. That complaint was filed for offences punishable u/s 269, 270, 271 and 278 of IPC. The learned Magistrate took a cognizance y.s 204 of C.rP.C. on 11.7.1994 and passed an order to issue summons against the six accused i.e. the present petitioners and that complaint was fixed for further proceeding on 27.7.1994.

3 Being aggrieved against and dissatisfied with the said order of taking cognizance the offences against the original accused, accused have presented this petition u/s 482 of Cr.P.C. with a request to quash the proceeding initiated against all the petitioners.

4 When this matter reached for hearing at final stage, the learned advocate for the petitioners and Shri S.T. Mehta, learned APP for respondent no.2, jointly submitted that no reasoned order be passed while rendering the judgement in this case.

5 Having heard the learned counsels for both the parties and on considering the allegations stated in the original complaint and the grounds for quashing the proceedings stated in the petition, this Court is of the view that there is no direct nexus between the act of present petitioner nos.1 and 2 with the alleged offences alleged to have been committed by the other accused.

In view of this, this Misc. Criminal Application is allowed partly and the proceedings initiated against the present petitioners nos.1 and 2 vide order dated 11.7.1994 below complaint at exh.1 in Criminal Case No.2626 of 1994 pending on the file of the learned Judicial Magistrate First Class is quashed and therefore complaint qua accused nos.1 and 2, is set aside. So far as request of the petitioners nos.3 to 6 is concerned it is refused. The learned Magistrate is directed to proceed further, with the case against accused no.3 to 6 in accordance with law by affording opportunity to all the concerned parties including the complainant. As this

case is of 1994, the learned Magistrate is directed to dispose of the case as early as possible, preferably within one year from today.

6 In view of the above directions, this application stands disposed of. Rule for petitioners nos.1 and 2 is made absolute and Rule for petitioners nos.3 to 6 is discharged. Ad interim relief granted on 5.9.1994 is vacated so far as it relates to complaint lodged against petitioners nos.3 to 6. That ad interim relief is made absolute for complaint qua petitioner No.1 and 2.

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